

**Services and Supports Provided by Legally Responsible Individuals, Relatives and Legal Guardians**  
**Appendix B-2**  
**Attachment 1**

**General Guidance:**

- Guardians of the person may provide paid waiver services, if they meet provider eligibility criteria.
- Parents of minor children, spouses, and general guardians or guardians of the estate are considered by the federal government to be “legally responsible persons” and may not provide paid services to waiver recipients.
- Nothing in this policy restricts the amount of paid service a waiver recipient may receive.

**Policy related to Payment of Relatives of Waiver Recipients:**

- A parent or parents, biological or adoptive, of an adult child, in combination, may provide up to 217 hours of medically necessary paid services to their child/children in a calendar month. For parents, biological or adoptive, this number of hours represents the maximum amount regardless of the number of children who receive services under the waiver.
- Other biological or adoptive family members, such as brothers or sisters, aunts, and uncles, who do not live in the same home as the waiver recipient may provide, in combination, up to 217 hours of medically necessary paid services to their family member in a calendar month.
- When parents and/or family members are the paid care provider, there must be a clearly defined back-up plan as required by the Plan of Care (POC) that specifies who will provide the care if the parent and/or family member is unable to do so.
- Parents, biological or adoptive, as well as other biological family members must meet required provider qualifications based on the service provided.

**Policy related to Payment to Legal Guardians:**

- Payment may be made to individuals who serve as legal guardians **of the person** only. Those individuals, regardless of whether or not they have a familial relationship to the waiver recipient, may provide up to 217 hours of medically necessary services to their ward in a calendar month, provided they meet all provider qualifications. If the guardian of the person is a relative, the other requirements of family members as service providers above also apply.
- In circumstances in which the guardian of the person chooses/requests to provide the paid care to their ward the following process will be followed:
  1. Upon completion and signing of the Plan of Care (POC) by the planning team, the Plan of Care is submitted to the Local Management Entity (LME) Care Coordination Unit for review of the appropriateness of the request for the guardian to provide paid care.
  2. A checklist outlining specific criteria will be developed by the Department of Health and Human Services (DHHS) and used by the Care Coordinator to assist in the review process. Items on the checklist will include information regarding quality of care concerns related to the provision of care by the guardian.
  3. If the Care Coordinator is in agreement with the frequency of hours of service to be provided by the guardian, as well as frequency and duration of services included in the POC, a formal written recommendation for approval is made. This approval recommendation will be attached to the POC by the case manager as a component of the packet sent to the statewide utilization review vendor for medical necessity review.
  4. If the Care Coordinator determines that it appears that provision of services by guardian of the person is not appropriate, or the hours requested appear to exceed medical necessity, the Care Coordinator will write a recommendation of disapproval. This recommendation will be attached to the POC by the case manager as a component of the packet sent to the statewide utilization vendor for medical necessity review.
  5. The statewide utilization vendor will consider the Care Coordinator’s recommendation in reviewing the POC. If the utilization vendor denies or reduces the hours requested, the guardian will be provided with the appropriate appeal notice and rights.